

additional time to retain an attorney and file a response to the motion. The Court granted the extension. After its expiration, Claimants' new counsel requested additional time to respond, which the Court denied.

Although Claimants have acted in a dilatory manner and have completely failed to prosecute their claims, their conduct does not justify the extreme sanction sought by the Government. Rule 37 of the Federal Rules of Civil Procedure authorizes the Court to impose sanctions for failure to cooperate in discovery. As one possible sanction, a court may issue an order "striking out pleadings or parts thereof, . . . or dismissing the action or proceeding or any part thereof, or rendering a judgment by default against the disobedient party." Fed. R. Civ. P. 37(b)(2)(C). Such sanctions are appropriate, however, only "where the party's conduct amounts to flagrant disregard and willful disobedience of discovery orders." United States v. Certain Real Property Located at Route 1, Bryant, Alabama, 126 F.3d 1314, 1317 (11th Cir. 1997) (quoting Buchanan v. Bowman, 820 F.2d 359, 361 (11th Cir. 1987)). In this case, no discovery order has been issued. The Government has not moved the Court to compel any discovery from Claimants. In the absence of such a motion, and an order from this Court compelling production or disclosure, the Court cannot strike the Claimants' pleadings.

The Court will, however, grant the Government an additional 90 days, from the date of this Order, to pursue any necessary discovery from the Claimants. Deadlines for filing dispositive motions shall be adjusted accordingly. Claimants are expected to cooperate fully in discovery, and the Court will show little tolerance for any further delays.

SO ORDERED, this the 12th day of April, 2006.

/s/ Duross Fitzpatrick
DUROSS FITZPATRICK
UNITED STATES DISTRICT JUDGE

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